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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,450	11/17/2003	Ulrich Doering	15540-016001 / A 100 504	9365
26171	7590	04/11/2005	EXAMINER	
FISH & RICHARDSON P.C. 1425 K STREET, N.W. 11TH FLOOR WASHINGTON, DC 20005-3500			MAYO, TARA L	
			ART UNIT	PAPER NUMBER
			3671	

DATE MAILED: 04/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/714,450	<b>Applicant(s)</b> DOERING ET AL.	
	<b>Examiner</b> Tara L. Mayo	<b>Art Unit</b> 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 through 4 and 8 through 13 are rejected under 35 U.S.C. 102(b) as being anticipated by WIPO Patent No. 01/72226 A1.

WIPO '226, as seen in Figure 3, shows an operating table comprising:

with regard to claim 1,

a bearing column (14);

a table top (2) mounted on the bearing column, wherein the table top is displaceable from a middle position transversely to a longitudinal axis of the table (via element 6; see claim 1) and tiltable about a tilting axis (A) that is substantially parallel to the longitudinal axis of the table;  
and

a control device (4) that automatically activates a transverse displacement of the table top in a direction towards the middle position during a tilting movement (page 13, lines 8 through 15);

with regard to claim 2,

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wherein the control device automatically displaces the table top in the direction of its middle position transversely to the longitudinal axis of the table when a predetermined critical angle is exceeded during a tilting movement (page 9, lines 15 through page 10, line 3);  
with regard to claims 3 and 10,

wherein the critical angle is predetermined as a function of the displacement of the table top from its middle position transversely to the longitudinal axis of the table;  
with regard to claim 4,

wherein the control device comprises an electronic control unit (page 13, lines 8 through 15);  
with regard to claim 8,

a bearing column (14);

a table top (2) mounted on the bearing column, wherein the table top is displaceable from a middle position transversely to a longitudinal axis of the table (via element 6; see claim 1) and tiltable about a tilting axis (A) that is substantially parallel to the longitudinal axis of the table;  
and

means (4) for automatically activating a transverse displacement of the table top in a direction towards the middle position (page 13, lines 8 through 15); and  
with regard to claim 9,

wherein the means for automatically activating a transverse displacement of the table top automatically displaces the table top in the direction of its middle position transversely to the longitudinal axis of the table when a predetermined critical angle is exceeded during a tilting movement (page 9, lines 15 through page 10, line 3).

With regard to claims 11 through 13, the method steps recited therein are inherent to the use of the device shown by WIPO '226.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 5 through 7 and 14 through 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over WIPO Patent No. 01/72226 A1 in view of Brown (U.S. Patent No. 6,574,808 B1).

WIPO '226 discloses all of the features and method steps of the claimed invention with the exception(s) of:

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with regard to claim 5,

the control unit comprising a comparator element for comparing an actual tilting angle with the predetermined critical angle;

with regard to claim 6,

the control unit comprising a computing element for calculating the predetermined critical angle as a function of the displacement of the table top transversely to the longitudinal axis of the table;

with regard to claim 7,

the control unit comprising a memory element for storing critical angle values as a function of the displacement of the table top;

with regard to claim 14,

the step of measuring a tilt angle of the table top;

with regard to claim 15,

the step of comparing the measured tilt angle with a predetermined critical angle;

with regard to claim 16,

the step of calculating the predetermined critical angle as a function of a displacement of the table top transversely to the longitudinal axis of the table; and

with regard to claim 17,

the step of storing values of predetermined critical angle as a function of the displacement of the table top.

Brown et al. '808, as seen in Figures 1 through 3, disclose an imaging table leveling system comprising a control unit for storing, calculating, and comparing angle values of the table top and subsequently commanding actuators to adjust the table top according to the same (col. 3, lines 11 through 47).

With regard to claims 5 through 7 and 14 through 17, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention disclosed by WIPO '226 such that it would include a control unit as taught by Brown et al. '808. The motivation would have been to provide means for automatically adjusting the position of the table top.

#### *Response to Arguments*

6. Applicant's arguments filed 09 December 2004 have been fully considered but they are not persuasive.

In response to Applicant's statement that WIPO '226 fails to teach a control device or means that automatically activates a transverse displacement of the table top in a direction towards the middle position during a tilting movement, the Examiner references the rejection of the claims and notes that the lateral tilting arrangement (4) disclosed by WIPO '226 includes actuating hydraulic cylinders (8) which operate to laterally tilt the table top about a "cluster of axes" (p.9, lines 15 through 25) and displace the table top in the lateral direction, however slight, as shown in Figure 3 where the right side of the second frame (10) is displaced from being in

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vertical alignment with the lower first frame (9). Moreover, the action of the cylinders is automatic in that it does not require manual activation or operation.

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tara L. Mayo whose telephone number is 571-272-6992. The examiner can normally be reached on Monday through Friday 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 703-308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to be "Jill", written over the printed name "Jill".

29 March 2005

A large, stylized handwritten signature in black ink, likely belonging to Robert E. Pezzuto.

ROBERT E. PEZZUTO  
PRIMARY EXAMINER